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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDISON LAO TING
and JAMES C. KLEWEIN

Appeal 2009-005130
Application 10/604,450
Technology Center 2100

Before JOSEPH L. DIXON, HOWARD B. BLANKENSHIP, and
JEAN R. HOMERE, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-20, which are all of the claims in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

Appellants' invention relates to a method for ordering nodes within hierarchical data. The concept of isolated ordered regions to maintain coordinates of nodes is used by associating each node with coordinates relative to a containing region. Modifications to nodes within a region only affect the nodes in that region, and not nodes in other regions. Traversals that retrieve information from the nodes can rebase the coordinates from their containing region and return with a total order. Abstract.

Representative Claim

1. A system to order a plurality of nodes associated with entities in a document, said system comprising:
 - a. a node generator parsing said entities in said document and creating a plurality of nodes that represent said entities and relationships that exists among said entities;
 - b. a node grouper grouping said created plurality of nodes into a plurality of regions, each of said regions defining an area within a n-dimensional space, wherein n is greater than one; and
 - c. a formatter for formatting said plurality of regions for storage.

Examiner's Rejections

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin (US 6,941,521 B1) and Liu (US 2004/0168119).

The remaining rejections set forth in the Final Rejection have been withdrawn by the Examiner. Ans. 3.

Claim Groupings

In view of Appellants' arguments in the Appeal Brief, we will decide the appeal on the basis of claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

Have Appellants shown that the Examiner erred in finding that the combination of Lin and Liu teaches "a node grouper grouping said created plurality of nodes into a plurality of regions, each of said regions defining an area within a n-dimensional space, wherein n is greater than one" as recited in claim 1?

FINDINGS OF FACT

1. Lin discloses a method for dynamically generating a graphical user interface (GUI) from Extensible Markup Language (XML) based documents. Visual components or display objects for building a GUI are defined, as well as a layout hierarchy describing layout relationships between the display objects, specifying how related display objects are to be laid out relative to each other on a layout window in the GUI. Abstract.

2. FIG. 2B is a representation of object model tree corresponding to the XML source code listing shown in FIG. 2A. FIG. 2B is reproduced below:

U.S. Patent Sep. 6, 2005 Sheet 3 of 9 US 6,941,521 B2

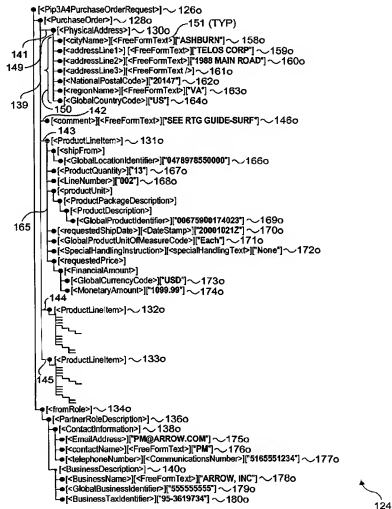


FIG. 2B

3. Object tree representation 124 (of Figure 2B) provides a logical representation of the components of a Document Object Model (DOM) tree

that would result from parsing the XML of XML listing 120, and are used to create the intermediate objects. Col. 4, ll. 29-32.

PRINCIPLES OF LAW

Claim Interpretation

During examination, claims are to be given their broadest reasonable interpretation consistent with the specification, and the language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Amer. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted). The Office must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. *Id.* (citations omitted).

Obviousness

“What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under § 103.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 419 (2007). “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416.

ANALYSIS

Section 103(a) rejection of claims 1 and 11

The Examiner finds that Lin discloses the “node generator parsing said entities” as recited in claim 1. Ans. 4. Appellants contend that the sections of Lin cited by the Examiner merely teach a method for the

conversion of an XML file to a DOM tree, but they do not disclose parsing entities in a document to create a plurality of nodes that represent said entities and relationships that exist among said entities. App. Br. 20-21; Reply Br. 3-4.

We agree with the Examiner. The sections of Lin cited by the Examiner discuss Figure 2B, which shows an object tree representation that provides a logical representation of the components of a DOM tree that would result from parsing the XML of an XML listing. FF 1, 3. The components of the DOM tree include a plurality of nodes that represent entities, along with the relationships that exist among the entities as shown in Figure 2B. Appellants have not provided evidence or persuasive arguments to distinguish the object tree representation shown in Figure 2B of Lin from “the node generator parsing said entities in said document and creating a plurality of nodes that represent said entities and relationships that exists among said entities” as recited in claim 1.

The Examiner finds that Lin discloses “a node grouper grouping said created plurality of nodes into a plurality of regions, each of said plurality of regions defining an area within a n-dimensional space, where n is greater than one.” Ans. 4. Appellants contend that the sections of Lin cited by the Examiner describe a parent node having one or more child nodes, but do not disclose the grouping as shown in Figures 3a, 3b, and 3c of Appellants’ Specification. App. Br. 21-23; Reply Br. 5.

We agree with the Examiner. Appellants have provided no basis to limit the “node grouper” of claim 1 to the embodiments shown in Figures 3a, 3b, and 3c of Appellants’ Specification. Further, the sections of Lin cited by

the Examiner describe a group object that includes a parent node having one or more child nodes. For example, each of the XML elements labeled in Figure 2A of Lin corresponds to group elements, such as a purchase order. The purchase order element group includes physical address nodes and product line item nodes that occupy two dimensional regions as shown in Figure 2A of Lin. Appellants have not provided evidence or persuasive arguments to distinguish the grouping shown in Figure 2A of Lin from “the node grouper grouping said created plurality of nodes into a plurality of regions, each of said plurality of regions defining an area within a n-dimensional space, where n is greater than one” as recited in claim 1.

Appellants contend that the combination of Lin and Liu does not teach a formatter for formatting said plurality of regions for storage. Appellants base this contention on the premise that the combination of Lin and Liu does not teach the grouping of nodes within a n-dimensional space, so the combination cannot teach “formatting said plurality of regions [containing the grouping of nodes within a n-dimensional space] for storage.” App. Br. 24; Reply Br. 5-6. Given that Lin teaches the “node grouper” within the meaning of claim 1 as discussed above, we find this argument unpersuasive.

Appellants do not present arguments for separate patentability of claim 11, but rely on the arguments presented for claim 1. We sustain the rejection of claims 1 and 11 under 35 U.S.C. § 103.

Section 103(a) rejection of the remaining claims

At pages 25 through 29 of the Appeal Brief, Appellants quote language from several claims, identify sections of the prior art cited by the

Examiner as teaching the quoted claim language, and allege generally that the combination of references applied by the Examiner fails to teach the quoted language. However, these remarks fail to show how the claim limitations differ from the specific prior art citations the Examiner has made. Appellants do not present any arguments to explain why the Examiner's fact finding is in error.

A statement that merely points out what a claim recites will not be considered an argument for separate patentability of the claim. *See* 37 C.F.R. § 41.37(c)(1)(vii). To the extent that any of the remarks might be construed as arguments for separate patentability, the remarks are insufficient to show error in the Examiner's findings in support of the conclusion of obviousness. Appellants' Brief is thus ineffective in demonstrating error. *See Ex parte Belinne*, No. 2009-004693, slip op. at 7-8 (BPAI Aug. 10, 2009) (informative), *available at* <http://www.uspto.gov/web/offices/dcom/bpai/its/fd09004693.pdf>.

We therefore sustain the rejection of claims 2-10 and 12-20 under 35 U.S.C. § 103.

CONCLUSION OF LAW

Appellants have not shown that the Examiner erred in finding that the combination of Lin and Liu teaches "a node grouper grouping said created plurality of nodes into a plurality of regions, each of said regions defining an area within a n-dimensional space, wherein n is greater than one" as recited in claim 1.

DECISION

The rejection of claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over Lin and Liu is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED

msc

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